STATE COERCION AGAINST PEASANT FARMERS: THE TANZANIAN CASE

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I. AUTHORITARIANISM

It is no doubt true that all states operate an authoritarian legal system and that those of us who live under the "dictatorship of the bourgeoisie" tend to overlook how repressive the state apparatus really is in its day-to-day operations in our societies. Yet it is also undoubtedly true that some states are a good deal more authoritarian than others and rely more frequently on coercion against recalcitrants. This paper focuses upon Tanzania--a country that has enjoyed a stable political system and uninterrupted constitutional rule ever since its independence in 1961. President Julius K. Nyerere, one of the world's leading statesmen, is well known for his zeal in promoting the liberation of African people from the yoke of colonialism and from rule by white supremacist settler regimes, and is admired in many circles for his eloquent elaboration of the philosophy of socialism and self-reliance (Ujamaa na Kujitegemea in Kiswahili and often known as "ujamaa socialism") and for his advocacy of peaceful transition to democratic socialism and a fairer distribution of the world's wealth (Nyerere, 1966; 1968; 1973). Tanzania also experienced a British colonial system of administration and legal order that was authoritarian in the extreme. The present government still frequently relies upon force to ensure the implementation of its policies. I admire the progressive foreign policies of the Tanzanian government and the radical rhetoric of the ruling political party. But in this paper I attempt to analyze the measures of state coercion used against the mass of Tanzania's immediate producers --peasant farmer families--and point out how those who control the state readily resort to force when persuasion fails to advance their policies.

Scholars interested in legal pluralism might consider why it is that the common law appears to operate so differently in Africa from the way it does in its place of origin and in North America and Australasia. The starting point for our consideration is some recent examples of extreme authoritarianism and high-handed behavior by state officials. These should concretize

and clarify my assertion that legal coercion plays a crucial role in implementing state policy.

II. SOME RECENT EXAMPLES

For many lawyers (and others) the repressiveness of a government may be judged by its protection of political and civil rights and liberties. An excellent account of the Tanzanian situation is contained in Robert Martin's Personal Freedom and the Law in Tanzania (1974). Martin was initially well-disposed towards Tanzanian aspirations; but his chapter on executive and administrative powers reveals numerous instances of arbitrariness and excessive zeal by office-holders, and other chapters inspire little confidence in the remedies available against abuses of power wielded by party or government bureaucrats. Recent high court cases indicate that even the superior courts appear to be virtually powerless to help those who have suffered gross violations of their civil rights.

On the one hand there are judges who refuse to question abuses even when these are drawn to their attention. A recent judgment on an application for habeas corpus, for example, indicates extraordinary acquiescence in a blatantly irregular exercise of preventive detention powers by government leaders. The Preventive Detention Act, 1962 (Cap. 490) empowers the president to direct the detention of those he finds are conducting themselves so as to endanger peace and good order, or acting in a manner prejudicial to the defence of the country or the security of the state. Such directions must be made by the president "By order under his hand and the Public Seal" (s.2(1)). The fact that no order made under this act can be questioned in any court (s.3) does not rule out consideration by the high court of the formal validity of orders purporting to have been made under the act. In this case the order was made without bearing a public seal and it was signed not by the president but by the prime minister, who was also the second vice-president. This did not disturb Maganga J.:

> In the order produced in this case it is categorically stated that the Prime Minister and Second Vice-President exercised the powers conferred by section 2 of the Preventive Detention Act by virtue of the provisions of that section and all other powers thereunto enabling him. This is a categorical statement and it must be assumed that such enabling powers exist.

Quite an assumption! The judge was content to conclude:

> I would only observe that where an order is made under delegated powers it must state the relevant provisions of the law authorising the delegation and in the case of enabling powers, the enabling legislation. This however is the province of the Legal Draftsman and I hope that he may find it necessary to look into the matter when drafting orders such as the one before me.[1]

In view of this approach, it is perhaps not surprising to read in a research paper on the Resettlement of Offenders Act (No. 8 of 1969) that more than 95 percent of those confined in centers established under this act have been put there without due compliance with its procedural requirements. Sometimes the documentation consisted merely of a list of names with the blanket assertion: "These people are dangerous." "Resettlement" in these centers, which resemble minimum security prisons, is of indeterminate duration, and releases occur only when there is one of the periodic presidential pardons on the occasion of a national holiday (Shaidi, 1978).

On the other hand some judges have tried to make a stand. In one case a person sought an order for mandamus against a regional police commander. The applicant had been arrested by the police, who suspected that he was involved in smuggling goods to Kenya; therefore, his lorry and its contents were seized and kept in police custody. In due course he was tried and acquitted. The trial magistrate then ordered the return of his vehicle and goods. But the police commander was told by the regional commissioner that the court order was not to be obeyed. [The regional commissioner is also the regional party secretary and thus the highest party and government official in the region. He is also chairman of the regional security committee.] The commissioner then ordered the regional security committee to sell the goods and to send the lorry to Dar es Salaam police headquarters. Meanwhile the applicant had been making constant unsuccessful attempts to regain his property, eventually filing the application for mandamus. Mnzavas J. made the appropriate orders and, alternatively, awarded damages. He also felt constrained to say this:

> One of the things that distinguishes Tanzania from other One-Party states is the independence of its judiciary; should one now commence, as did the Honourable Regional Commissioner, to blocking and interfering with court orders which are not to his liking we will, I am afraid, be sinking to the level of a Banana Republic where judges can be dismissed at whim and where judgments are written by rulers. No one of us would like such a

> situation to develop in Tanzania.[2]

One is left to wonder, however, whether the high court order will be observed.

Such skepticism is increased when one considers another more recent case of alleged smuggling and the seizure of goods. The police arrested six people and seized five vehicles and their contents. On this occasion, however, the police did not take the matter to court at all but rather went straight to the regional security committee! The committee discussed the matter without hearing or even notifying the affected parties and decided to ask the prime minister to order the forfeiture of the vehicles and their contents. The committee even requested that the forfeited vehicles be allocated to their own region to remedy the crucial shortage of government vehicles! In due course the principal secretary in the prime minister's office communicated the government's approval of the recommended forfeiture. Unfortunately, the applicants' action had been brought against the regional police commander and the secretary of the regional security committee. Because the actual decision was that of the prime minister, it was held that he was the proper defendant. Mwesiumo J. made it crystal clear, however, that the applicants should re-institute the proceedings:

> This is a temple of justice and nobody should fear to enter it to battle his legal redress as provided by the law of the land.[3]

But Mwesiumo J. may himself be wondering whether those confident words still ring true. His problem arose in a civil case between a private individual and a mining co-operative society over the occupation and mining of a plot of land. The plaintiff sought an order evicting the defendants and granting damages. The defendant did not just respond in the courtroom. While some preliminary chamber applications were being considered the matter was brought to the attention of the regional commissioner. He called the state attorney and asked the latter to use his good offices to ensure that the case file was withdrawn from the court and transferred for discussion and determination to none other than the ubiquitous regional security committee. The state attorney advised that he did not have the power to withdraw case files. Very soon, however, "another bombshell was shot," as the judge put it. The case file was seized from the judge's chambers while he was in court hearing other cases! It transpired that the chief justice had personally telephoned the judge-in-charge at the court and insisted that the file be obtained and dispatched to Dar es Salaam absolutely immediately. The chief justice is said to have alleged that he

was acting on the instructions of the president! In compliance with this "grave directive" the judge's chambers were ransacked by court officials until the relevant file was found and sent to Dar es Salaam. Some considerable time later the file was personally delivered back to the judge with a letter from the chief justice which merely stated that the file had been gone through and it was now forwarded back for the case to be continued! There was "no scintilla of information in that letter as to why the said file had been so urgently called." The judge obviously brooded for some time about the "acts of humiliation" he had suffered and then delivered judgment outlining what had happened. He concluded that in the circumstances he could no longer try the case with impartiality and so he adopted the novel course of referring the whole matter to the court of appeal for it to sort out.[4]

In several habeas corpus hearings the applicants had been detained in prison without any valid warrants or detention orders and the high court had ordered their release but they had been re-arrested as they left the judge's chambers within full view of the judge, court staff, and members of the detainee's families. Following the re-arrests, the detainees were immediately transferred to various prisons in different and distant parts of the country. The judge cited remarks by Lord Denning delivered at a Commonwealth Magistrate's Conference in Nairobi:

> They must uphold the law. They must support the constitution as by law established. They must support the legitimate authority of those lawfully entrusted by common consent with the exercise of it. They must support measures passed so as to encourage the development of the country and the well being of its people. On the other hand they must curb abuses of power by those in authority and they must protect the individual from oppression in the use of it.

He went on to urge that: "No matter how politically charged an issue may be, legal process has a part to play and the law must be followed." And he cited the views of President Nyerere: "Rule of Law is part of socialism; until it prevails socialism does not prevail."[5] But neither these fine sentiments nor, it seems, direct representations by the judge to the attorney general restored the applicants to liberty. Eventually, no doubt, valid prevention detention orders were obtained so that the detentions became "lawful."

In the light of the above it is not surprising that magistrates in subordinate courts are even less likely to defy

the directives of party officials. Thus in a case at Musoma a district magistrate was induced to transfer a dispute over the allocation of land from the court to the village council following the receipt of a letter from the district party secretary stating that the dispute was political and the party had to be consulted. When the result of the village council deliberations was made known the magistrate wrote a routine judgment abiding by that decision, though complaining it was unfair.[6]

It is not only party officials who put direct or indirect pressure on magistrates. A Tanzanian law student came across a letter to a primary court magistrate from the police officer in charge of criminal investigations in the district. The case concerned a complaint filed against a person, who happened to be the party's ten-cell leader, charging him with using abusive language contrary to s.89(1)(a) of the Penal Code (Cap. 16). Translated, the letter read:

> For information and interest of the court, I inform you that the complainant has a quarrel known to people with the accused who is a ten-cell leader because the latter has been harassing him by asking where he works.
>
> This case is a frame-up to stop his habit of enquiring about people's work. The complainant is a vagabond, a car thief and a burglar. His witnesses are also rogues. They are concocting a case to stop the accused from going to the complainant's house to question him.
>
> Please, in the interest of the Nation investigate and take appropriate steps in the case. Thank you for co-operation (Mtui, 1979).

The outcome of the case is not known but one can make a fairly confident guess that it was not in favor of the complainant. It is impossible to estimate the frequency of these interferences with the judicial process and one can safely predict that official clearance to undertake research into the issue would be very difficult to obtain. It is said by informed persons, however, that such occurrences are not at all uncommon.

III. COERCION AGAINST THE PEASANTRY

The above examples of authoritarianism give a partial and in many respects a distorted perspective on the Tanzanian legal

system. They focus on matters that are of great momemt according to the common law tradition, which asserts the importance of individual political and civil rights and emphasizes concepts such as "independence of the judiciary" and "rule of law." But this approach tends to neglect the everyday operations of the criminal justice system, which may be very oppressive. And it concentrates on political freedoms but neglects the fact that they may co-exist with the freedom to starve and to be exploited.

Habeas corpus and mandamus cases are brought by those few who have access to the extremely limited legal services available in Tanzania. For Tanzania is one of the 20 poorest countries in the world and 90 percent of its population live in small rural villages dependent on agricultural production. The vast majority of that rural population consist of poor or very poor peasant farmer households. Do they avoid the impact of the authoritarian legal system? Not at all. They constitute the productive base of the economy and are by far the largest source of the surplus value extracted from Tanzania's immediate producers. A great deal of the time and effort of party and government leaders is devoted to efforts to educate, persuade, or cajole peasants to work harder and produce more crops. Massive educational campaigns are conducted using the full ideological apparatus of the state. The key messages are "Siasa ni Kilimo" ("Politics is Agriculture"--also known as the Iringa Declaration issued by the single political party, then TANU, in 1973) and "Kilimo cha Kufa na Kupona" ("Agriculture of Life and Death").

Frequent resort to the criminal courts backs up these ideological efforts. So important is this that a party ward secretary, interviewed on Radio Tanzania last year about development problems in his area, declared that the chief impediment was the fact that the nearest primary court was 20 miles away and it was very inconvenient to have to transport people who were not carrying out party and government directives such a distance. Set out below are press reports that indicate some of the cases where criminal sanctions are imposed. It should be stressed that all these reports are perfectly matter of fact items appearing in a daily column entitled "Regional Roundup" in the government newspaper Daily News. None was the subject of particular comment. They are typical examples of the day-to-day operations of the legal order. The heading for each report indicates the district whence it comes:

> Sengerema: A Catholic leader at Kihinda village, John Nkerere, has been jailed six months by a

District Magistrate, Ndugu P. Mayunga,[7] for inciting villagers not to use fertilizers on their farms. He told people that taking fertilizer adding [sic] to their burden of debts to the Government. The magistrate said that the accused's campaign was contrary to the government's campaign on intensified farming. Some 281 bags of fertilizer were sent to the villagers this season to use on 2,500 hectares of land. They have so far taken only 81 bags. (24 March 1979)

Tanga: Residents of Bungu Division in Korogwe District have been told to stop marrying off their schooling daughters. Sentencing two parents to a total of six months imprisonment for failure to make sure their daughters attended school, a primary court magistrate observed that parents had a duty to send their children to school. (21 April 1979)

Masasi: 10 peasants from Mpeta village, Masasi District, have been fined 50/- each or 1 month in jail by a Chungutwa Primary Court for refusing to work on a communal farm belonging to the village. (29 January 1979)

Tabora: Three people who ignored a directive to cultivate farms in Kazima village were fined 100/- each by a primary court magistrate Ndugu C. N. Kasanga. Village Secretary Ndugu Louis Mkubwa told the court that Said Ramadhani (29), Kahamba Mtani (35) and Juma Magolo (35) ignored a village government by-law requiring every villager to cultivate at least one hectare of cash crops this season. (28 May 1979)

Masasi: Six peasants in Mchauru Division in Masasi District have been fined 300/- each or six months imprisonment in default after being found "guilty" of burning their cashew-nut farms. They paid the fine.

Sentencing them, the Mchauru Primary Court Magistrate, Ndugu C. K. Kamguna, warned against the offence and said it adversely affected the country's economy. (date not available)

Nachingwea: Two Nachingwea residents--Zuberi Chinunga (45) and Vitus Juma (29)--have been sentenced by the Nachingwea District Magistrate, Ndugu P. S. Litanda, to 12 months imprisonment each for setting fire to

their cashew-nut farms instead of weeding them.

The prosecution alleged that the two set fire to their cashew-nut plantations, but the fire extended to other plantations where it burnt several hectares of cashew-nut trees. (2 July 1979)

Maswa: The District Party Secretary, Ndugu Titus Mpandaji has warned that drastic steps will be taken against people who will go back to their former villages before the villagisation programme. In a circular he issued to division and ward secretaries and village chairmen in the district, Nd. Mpandaji called on the secretaries to take legal steps against such people. The circular said the Government had information that some irresponsible people were instigating others to desert the new villages. (27 November 1978)

Dar es Salaam: More than 100 people believed to be city loiterers were arrested by the police in Dar es Salaam at the weekend. People without proper identity cards were picked up by the police. . . . The operation continues at various spots--bars, cinema halls and on the streets. (4 December 1978)

Kyela: The Usale ward in Kyela District has launched a cassava growing campaign as a measure against the impending hunger to the area because the floods had destroyed many farms. The Usale ward secretary Ndugu Patali Sibonike has told Shihata that in the campaign each family is required to cultivate not less than an acre. Ndugu Sibonike said that the peasants have been given up to April to grow cassava in their farms or legal steps would be taken against them. (27 February 1979)

Baridai: All traditional ngomas [dances] have been suspended during week days in the district to allow peasants to harvest cotton. This was resolved at a week-long seminar for Party and Government leaders last Friday. (29 May 1979)

IV. COLONIALISM'S LEGAL HERITAGE

The most immediate and obvious explanation for the authoritarianism of the Tanzanian legal order is, of course, that it is the immediate successor to the colonial states of Tanganyika and

Zanzibar. This is particularly so with respect to the heavy reliance on administrative regulatory powers, in which criminal sanctions punish breaches of by-laws, directives, and orders. Colonialism made no pretence that it was anything other than authoritarian in its state administration. Colonial Office personnel may have claimed that "British administration in overseas countries has conferred no greater benefit than English law and justice" (Roberts-Wray, 1960:66). But the assumptions of colonialism were, and had to be, racist in order to justify the total domination of African peoples by an alien power: "It is true that the assumption on which we worked were based on a paternalistic outlook towards the people we ruled, and the changes we sought for them were what we and not they, thought were good." This was the admission of Nigeria's last governor and first governor-general who went on to declare: "The achievements of our work up to the time of the final hand-over were there for all to see and it is my belief that we need not be ashamed of them" (Robertson, 1974).

The achievements referred to may be described as the domination of Africa's diverse pre-capitalist social formations and their subordination to the needs of metropolitan capital's primary commodity markets. This drastic imposition upon the traditional patterns of living by independent cultivators did not take place on a purely voluntary basis. On the contrary, the changes colonial officials sought for the "good" of their subjects were vigorously forced upon many who were too "short-sighted" to understand the virtues of government policies.

The starting point for colonial legality was the so-called "reception statute" by which English law was "received" into each new territory as it was acquired. In the case of Tanganyika this followed the defeat of Germany in the First World War. The Tanganyika Order-in-Council 1920 declared that "the common law, doctrines of equity and statutes of general application [in effect on July 22, 1920] shall be in force in the territory."

The operation of English law in colonial Africa was quite different, however, from the pattern of administration in the metropolitan country or in those colonies with a British settler majority:

> Whatever may have been the "democratic" component of English law, it was plainly excised during its transportation overseas. The reasons are apparent. In East Africa and West, the imperatives of Empire as perceived by the colonial rulers required authoritarian government in order to maintain the control of "a few

> dominant civilized men" over "a multitude of the semi-barbarous." . . . English law may have nominally been the general law of the colonies; but it was a peculiar form of English law that had excised from its corpus any of the democratic forms or economic protections which are claimed to be the brightest jewels in the English legal crown (Seidman, 1969:78).

V. THE PROMOTION OF PEASANT AGRICULTURE

Though it is clear that the colonial legal orders in Africa played a crucial role in coercing the indigenous peoples to participate in the new capitalist economy, the precise nature of that participation varied from one territory to another. In some colonies mining was the most important sector of the economy and thus the supply of labor to these mines was the key issue for the administration. This labor was almost invariably organized on the basis of short-term labor contracts performed by men who migrated from their home area to live in a company compound while employed and then returned to their village. Plantation labor was organized on a similar basis for crops such as sisal. The supply of labor for estates and farms owned by European settlers in certain territories was derived largely from households that "squatted" on the less productive land peripheral to the farm. In some colonies and districts emphasis was placed on indigenous peasant farmers growing agricultural crops for export.

In Tanganyika migrant labor was employed on the sisal plantations, in the few mines, and on the settler-owned tea and coffee estates. For most Africans, however, the penetration of the modern cash economy occurred through cash crop production in their home areas. In the words of the governor of the territory in 1926:

> The first objective of the Government is to induce the native to become a producer directly or indirectly, that is to produce or assist in producing something more than the crop of local foodstuffs that he requires for the sustenance of himself and his family.[8]

But how were the "natives" to be "induced"? The district officers (with some assistance from the Department of Agriculture) engaged in propaganda work and, following the policy of so-called "indirect rule," sought the assistance of the government-appointed chiefs to try to achieve the implementation of this objective. But it was not an easy task to persuade

independent cultivators to forsake the economic and social patterns of production that had been developed over the centuries to cope with the harsh ecological constraints of surviving in tropical Africa. The problems for the district officers and their superiors were not very different from those that beset the ancient Greeks as tribal societies were displaced by the slave mode of production:

> If mankind be not forced to labour, they will only labour for themselves; and if they have few wants, there will be few who labour. But when states come to be formed. . . and as by the supposition, the wants of the labourers are small, a method must be found to increase their labour above the proportion of their wants. For this purpose slavery was calculated. . . . Here then was a violent method of making mankind laborious in raising food. . . .[9]

The methods of the colonial state were not far removed from slavery and were similarly justified as essential to "encourage" the type of economic activities that would provide the surplus product necessary to pay for the administration of the territory and supply the primary produce sought by the metropolitan market. Resort to compulsion was explained in the Dar es Salaam District Book, Annual Report 1927, in the following manner:

> In the distant future economics will automatically compel every native to do more than he is doing now, but before that stage is reached, for his own good and training for the hard work ahead of him, surely a little compulsion on the right lines should, when example and advice fail, be permitted.[10]

The "little compulsion" took the form of fines and short prison terms imposed by courts exercising powers derived from the Native Authority Ordinance first promulgated in 1921 following the precedent of the East Africa Protectorate's Native Authority Ordinance of 1912 (Morris and Read, 1972:21). In 1926 the governor, Sir Donald Cameron, replaced this legislation with a new law that remained in force throughout most of the remainder of the colonial era. Its wide-ranging powers have been succintly summarized as follows:

> Native authorities were obliged to maintain order and good government among natives and generally to make rules providing for peace, good order and welfare of such natives. The Ordinance empowered native authorities to make orders for a number of

> purposes, for example, requiring any peasant to cultivate land to such an extent and with such crops as will secure an adequate supply of food for support of such peasant and of those dependent upon him or prohibiting, restricting or regulating the burning of grass or bush. Such orders had to be made known to peasants in such manner as was customary in the area of jurisdiction of the native authority. A peasant who contravened or failed to obey any order was liable to a fine not exceeding two hundred shillings or to imprisonment not exceeding two months or to both imprisonment and fine (Fimbo, 1977:5).

Cameron thought his enactment was more in line with the policy of so-called Indirect Rule. Morris and Read comment:

> Cameron in his Memorandum indicates that the provisions in the new Ordinance regarding the giving of orders by chiefs introduced a new approach towards native administration. 'The administrative officer is no longer the executive authority for native affairs in the area of administration of a native authority--as he was under the former Ordinance; he now advises and guides and supervises, giving direct orders only if the native authority "shall neglect or refuse to issue" an order if directed by the administrative officer to do so.' But in fact there appears to be here little radical change in the position from that obtaining under the Native Authority Ordinances of Kenya and Uganda, the only difference being that under the latter Ordinances the administrative officer might issue such an order, even if the chief had not been directed to issue it.

In a footnote the authors (one of whom was an administrative officer in colonial Uganda) observe:

> The practical difference would be slight, since the administrative officer could in all cases ensure that any order he wished to be issued would be issued. Furthermore, in practice many of the orders theoretically issued by the chief on his own initiative would emanate from the prompting of an administrative officer (1972:22-23).

The fact that government policy was decided centrally and then the relevant native authorities were "requested" to enact by-laws or issue orders is particularly clear with respect to the

large numbers of regulations promulgated by the governor after 1930, which enabled the native authorities to make orders on a much larger number of matters than those enumerated in the 1926 Ordinance. The point has been well made by Cliffe:

> Although these Orders and Rules were officially imposed by the Native Authorities, this was invariably at the instigation of the Administration as evidenced by the fact that so many of the individual Orders were couched in more or less identical terms, and that specific Orders followed the making of additional enabling orders from the Governor.
>
> The various regulations related to every conceivable aspect of farming practice and land use. There were Orders on everything from "improving bees-wax and honey production in Central Province" to "the control and eradication of banana weevil" around Lake Victoria. Basically, however, they could be grouped together into three categories: those dealing with anti-erosion measures (compulsory tie-ridging and terracing, de-stocking, control of grazing, etc.); those aiming at improved methods of cultivation (destruction of old cotton plants, mulching of coffee, etc.); and those designed to prevent famine (compulsory production of some famine crops such as cassava or groundnuts) (1972:17-18).

An example of such orders were those made in 1935 and subsequent years by native authorities in the various districts of Lake Province, requiring the adoption of tie-ridging. Breaches of these orders were very widespread. For instance, the provincial commissioner's reports disclose that there were 12,096 convictions in 1943 and 14,408 in 1944. It is not surprising, therefore, to find the senior agricultural officer in the province writing in 1945 that "the consensus of opinion still seems to be that the African cultivator must be compelled to help himself."[11]

It should be emphasized that this was neither a localized nor an isolated example of the use of local courts to coerce peasants to adopt economic policies and administrative measures imposed by the colonial state. Indeed, some research has suggested that at least 40-50 percent of the cases dealt with by local courts each year were in this category (Du Bow, 1973). It should be noted, also, that although the penalty imposed upon conviction would usually be a fine, many hundreds of these "criminals" served terms of imprisonment because they could not

pay the fines imposed.

Besides by-laws and orders issued under the Native Authority Ordinance, the colonial state passed a large number of rules, orders, and directives to promote commodity production in the various sectors of the peasant economy. Examples cited by Fimbo (1977:15) include the Cotton Ordinance 1920, the Native Coffee (Control and Marketing) Ordinance 1937, and the Native Tobacco (Control and Marketing) Ordinance 1940. These and other pieces of legislation gave very extensive powers to government boards to control every detail of commodity production and, again, to subject recalcitrant growers to criminal sanctions for failure to comply with government seed, growing, marketing, and other policies.

Then there were the exactions of taxation. The Hut and Poll Tax Ordinance 1923 sought to bring each and every household into the cash economy in one way or another. Usually such taxation was justified by colonial officials in terms of the need to defray the costs of government administration. There can be no doubt, however, that there were other underlying reasons for the hut and poll tax system. The point was made rather bluntly by the governor of the East African Protectorate in 1913:

> We consider taxation as the only possible method of compelling the native to leave his reserve for the purpose of seeking work. Only in this way can the cost of living be increased for the native . . . and it is on this that the supply of labour and the price of labour depends.[12]

For Tanganyika Territory this aspect of taxation was especially pertinent for those least developed areas that were treated as "labor reserves"--particularly as sources of labor for the sisal plantations. It seems that in many cases the district administration actually planned their tax drives so as to "flush out" labor during the periods when employers needed it most (Shivji, 1979:4). Moreover, in Kigoma (one of the least developed labor reserve regions) the colonial government actually used by-laws to prevent the growing of cotton or other cash crops that would have provided an alternative means of paying the tax without engaging in migrant labor contracts (Nindi, 1979:11).

The only conclusion to be drawn from these facts is that the African peasantry were "induced" to participate in commodity production in large part because of extra-economic coercion. Capitalism in the African colonies did not smash the pre-capitalist social formations and force the peasantry to leave the land

permanently in order to work in industrial urban centers. There was no equivalent to the enclosure movement. It was not economic compulsion that subordinated Tanganyikan peasants to the requirements of commodity production. Although many colonial officials were swayed by racial prejudice in their assessment of Africans as laborers, some were more perceptive. Thus the person appointed in 1935 to look into labor problems in the mining industry made the following comment on absenteeism on the Musoma goldfield:

> In Europe the manual worker is entirely dependent on his earnings for his livelihood [though] he may cultivate a garden in order to supplement his earnings. In Musoma the picture is reversed. The natives are not at all dependent on their earnings in the mines or elsewhere for their livelihood--far from it. At present the whole time job of a Musoma native is to live his village or clan life and the little bit extra, the garden allotment, as it were, is to be gained by casual work on the mines or elsewhere.[13]

It should not be thought that state force and reliance on extra-economic inducement were the only factors involved in the capitalist penetration of Tanganyika. There were some areas--especially Buhaya (West Lake) and Kilimanjaro regions--where "a powerful thrust of indigenous entrepreneurship lay behind cash crop growing" (Iliffe, 1979:290). Indeed, African coffee growers established themselves in these regions despite the disapproval of colonial officials who were under pressure from settlers in adjacent areas to suppress unwanted competition. Disapproval extended to the uprooting of coffee trees, the destruction of nurseries, and attempts to limit the planting of Arabica coffee to non-native producers. An agricultural officer lamented, however: "The trouble is that native coffee needs no encouragement. The area of native coffee in Arusha is increasing against all the discouragement it is possible for my Department to give."[14] But such successful flouting of governmental policy was rather rare. Moreover, in Tanganyika--unlike Kenya, for example--settlers were not of overwhelming importance in economic or political terms and, as noted above, the general trend of colonial policy was to prefer peasant crop production in the territory.

VI. A BRIEF PERIODIZATION

The emphasis of this article is on state coercion of the Tanzanian peasantry. It needs to be noted, however, that resort to political and legal mechanisms in order to promote commodity

production was by no means a history of sustained and unrelenting pressure. There have been periods when ideological coercion has been favored or when economic circumstances have permitted less physical coercion--even though the legal structure remained ruthlessly authoritarian throughout. An attempt to categorize the decades from the inception of British rule to the present may help to illustrate the main trends of government policy.

British overlordship in the form of a League of Nations mandate found the territory utterly devastated by warfare, war-induced famines of massive proportions, and an economic collapse caused by the virtually total cessation of production on the settler farms and in the plantation sector of the economy (Kjekshus, 1977). The efforts to get the economy going again were heavily dependent on state coercion. The Native Authority Ordinances and the Hut and Poll Tax Ordinance of 1923 have been mentioned above. The Master and Native Servants Ordinance of 1922 imposed penal sanctions on those who breached their contracts of employment--a singular use of the criminal penalty not found in English law. The Destitute Persons Ordinance of 1923 mandated compulsory labor on public works and repatriation to one's usual place of residence for a person found without employment and unable to show visible and sufficient means of subsistence. The Collective Punishment Ordinance of 1921, the Deportation Ordinance of 1921, and the Witchcraft Ordinance of 1928 bestowed sweeping powers that could be exercised by courts and administrative officers to punish, detain, or remove from an area anyone obstructing the implementation of official policies.

In the 1930s the impact of the world-wide depression lessened the need for physical coercion. Many settler farms and plantations went bankrupt and the demand for labor and commodity production was greatly reduced, although taxation to raise government revenues became more important. It is significant that in 1933 the administration introduced the system of "extra-mural labor" on public works as an alternative to imprisonment for tax defaulters and those who could not pay their fines. In the years 1932-33 there were many exhortations by the governor, the director of agriculture, and their subordinates to increase agricultural output despite the non-remunerative prices (Nindi, 1979:16). In addition, officials were concerned to ensure that there were proper administrative procedures for dealing with famine, after ignorance and incompetence contributed to a famine disaster in Bugufi in 1929 (Bryceson, 1978:28-29). Even in the program for famine relief, however, physical coercion was not far removed. Bryceson recounts one extravagant abuse of power drawn from the files of the Lake Provincial Commissioner in 1934:

> One over-zealous District Officer in Lake Province upset with certain headmens' negligence in enforcing adequate food planting, caused 25 village headmen to be beaten in his presence and four superior headmen's salaries to be withheld for two months. This action evoked the extreme disapproval of the Governor. The District Officer had served in Bugufi after the famine and apologized that he had taken these extra-legal measures in view of the Bugufi incident. The District Officer was warned but not demoted. In fact later the Provincial Commissioner commended that District Officer, saying his action brought a remarkable response of increased native cultivation.[15]

The war years of the 1940s were a crisis period for the British Empire and the loss of Malaya imposed severe strains on Tanganyika's plantations. Eighty-six thousand seven hundred and forty men were enlisted into the armed services--almost entirely by conscription. In practice, this meant arbitrary impressment and systematic conscription of tax defaulters in some areas (Iliffe, 1979:370). Ordinary labor for the much expanded sisal plantations and hastily established rubber plantations became difficult to secure, even by the normally overbearing recruitment practices. In 1942 the governor engaged in intensive propaganda in all districts. By 1943 it was found necessary to go even further in exercising powers under the Emergency Powers Order-in-Council of 1939 and the Compulsory Service Ordinance of 1940.

> Greater discontent followed the conscription of labour for plantations. As a breach of fundamental policy, this decision--close to temporary enslavement--reveals Britain's desperation. Requests for large-scale conscription came in August 1943 from sisal growers pressed for maximum production at minimum cost but convinced that higher wages would produce less work. They asked for 16,000 workers, each for three years. The Colonial Office hesitated, but the War Cabinet--at Churchill's personal insistence--authorised the conscription of an initial 11,000 for not more than six (later twelve) working months. A district officer reported:
>
> Conscription has had to develop into a cunning procedure on the part of both the hunter and the hunted. A date is fixed with the Liwalis and any signs of the impending action, such as the ordering of lorries for the transport of recruits to Lindi

> and preparations of notices of selection, must be kept secret. . . . Then in the night preceding the fatal day a swoop is made and a few of the weak, meek, and slow are gathered (Iliffe, 1979:371).

In 1945 more than 26,000 persons were employed in this way--about 10 percent of these employed in agriculture, mining, and the public services (von Freyhold, 1977:22).

In the 1950s the "spiral of repression" gave way to the "new colonialism" as British governments committed themselves to guide colonial peoples along the road to self-government within the framework of the British Empire (Iliffe, 1979:370, 436). The colonial authorities had to be increasingly aware of nationalist sentiments, particularly after the founding of the Tanganyika African National Union (TANU) in 1954 under the leadership of Julius Nyerere. This is not to say that coercive enforcement of by-laws was minimized. Rather, a hotch-potch of piecemeal rules and regulations issued at various times were consolidated into schemes such as the Mbulu Development Scheme (1947) and the Sukumaland Development Scheme (1949). There were numerous compulsory elements in the implementation of these schemes and the culling of prescribed percentages of cattle was greatly resented. The provincial commissioner acknowledged that the disturbances they generated in 1953 led to the development and spread of a local political opposition (Cliffe, 1972:21). Perhaps the most famous scheme, and the one most fiercely resisted, was the Uluguru Land Usage Scheme. The Native Authority Land Usage (Morogoro) Rules 1951 prohibited numerous activities that would tend to erode the steep slopes in the fertile Uluguru mountains and empowered the native authority to order the construction of bench or contour terraces. Any person convicted of contravening any of the provisions of the rules or orders was liable to a fine not exceeding 50/- and imprisonment for one month. It was the attempt to enforce the terracing orders that led to serious riots in 1955 (Young and Fosbrooke, 1960).

Another cause célèbre in nationalist historiography was the Meru land case, which came before United Nations bodies on several occasions (Chidzero, 1962). International publicity did not prevent the colonial authorities from carrying out the eviction of 3,000 Meru people in order to make way for some settler farmers.

Tanganyika attained political independence in 1961 and became the United Republic of Tanzania in 1964 after a union with Zanzibar. There seems little doubt that in the first decade of independence the disliked and discredited mechanisms for enforced agricultural change fell into desuetude. The TANU government successfully mobilized the people to work hard using the slogan

"Uhuru ni Kazi" ("Freedom is Work"). In other respects there was much continuity with the "improvement approach" of the colonial era, which was endorsed by a World Bank mission and accepted by the new government (Miti, 1979:3). For the least developed regions of the country, however, a "transformation approach" was adopted which emphasized villagization (Nyerere, 1966:183). A good deal of money was invested in settlements established under the Rural Settlement Commission Act 1963 and the Land Tenure (Village Settlements) Act 1965. These highly capitalized schemes were a signal failure (Miti, 1979:7) and were abandoned in 1966 to make way for the policy of "Socialism and Rural Development" (Nyerere, 1968:337), which followed the Arusha Declaration 1967 on TANU's commitment to "Socialism and Self-Reliance" (Nyerere, 1968:235).

The touchstone of these new policies was that they were to be achieved by persuasion, not force. Although coercion was not precluded it was greatly deemphasized:

> It may be possible--and sometimes necessary--to insist on all farmers in a given area growing a certain acreage of a particular crop until they realize that this brings them a more secure living, and then they do not have to be forced to cultivate it. But living together and working together for the good of all is not just a question of crop output. It depends on a willingness to co-operate, and an understanding of the different kind of life which can be obtained by the participants if they work hard together. Viable socialist communities can only be established with willing members; the task of leadership and of Government is not to try and force this kind of development, but to explain, encourage and participate (Nyerere, 1968:365).

These remained the policies of TANU and the government until 1973, although there were reports of official heavy-handedness in some of the special "operations" used to move people to Ujamaa villages established in flood-prone Rufiji and in the very poor regions of Dodoma and Kigoma (Coulson, 1977). The period from 1973 to the present has witnessed a return to overt reliance on blatant acts of state violence to enforce agricultural change. Living in villages was no longer an option--it was compulsory (Williams, 1973). In the months that followed this TANU decision there were massive population shifts as literally millions of the poorest and the nomadic were moved to "development villages." Party leaders claimed that this was a tremendous success (Kuhanga, 1978), but there

can be no doubt that many thousands of peasant families had their homes burned down or otherwise destroyed, that the special armed police known as the Field Force Unit played a vigorous role in many areas, and that numbers of lives were lost, including those of government officials (Coulson, 1977). The Rural Lands (Planning and Utilization) Act 1973 and the Villages and Ujamaa Villages (Registration, Designation and Administration) Act 1975 created machinery for the close supervision and control of all villages by party and government bureaucrats, but these measures did not, of course, justify the excessive zeal of some officials in implementing what was frequently known as "Operation Sogeza" ("Operation Push"). In a case arising out of the destruction of the homes of peasants in Njombe District the judge, Samatta J., was so disturbed by the behavior of government officials that, though he found the accused guilty of assaulting an assistant agricultural officer who later died, he merely bound them over to keep the peace and be of good behavior for 6 months, saying that it was improper for them to take the law into their own hands even though they had been greatly provoked. (He also took account of the fact that the accused had spent more than 4 years on remand in custody pending trial!).[16]

In 1974 there was a wholesale revamping of district by-laws throughout the country. The Third Five Year Plan made the government's intentions clear (Miti, 1979:27), and Fimbo (1978:9) gives an example of the manner of implementation:

> The power to make by-laws is now vested in District Development Councils. To be operative the by-laws must be approved by the Minister responsible for regional administration, namely, the Prime Minister. The import of the by-laws is demonstrated by the Mahenge District Development Council (Cultivation of Agricultural Land) By-Laws, 1976 which state,
>
> '. . . every resident who holds land in accordance with local customary law relating to land tenure shall. . . . cultivate and maintain an area of not less than one acre of cash crops and an area of not less than one acre of food crops.'
>
> Cash crops include cotton, cashewnuts, wheat, tea, coffee and cardamon. Food crops include cassava, maize, rice, sorghum and yams. Any peasant who fails to comply with any of the provisions of the by-laws is guilty of an offence and is liable on conviction to a fine not exceeding shillings 500/-

> or to imprisonment for a term not exceeding two months. Many prosecutions and convictions for breach of by-laws have been recorded in all districts. The persons prosecuted belong to the class of poor and middle peasants.

Fimbo also reports the prosecution and conviction of 231 peasants in Mafia who had planted crops but refused to weed them, and he cites many similar incidents throughout the country. An August 1974 editorial in the Daily News was perfectly blunt:

> By-laws requiring people to cultivate the land and care for their farms have been operating in the country for many years. After independence their enforcement was somehow neglected. They are now being revived in many parts of the country to combat laziness and drunkenness.[17]

To conclude this brief historical perspective and to suggest the direct impact of state coercion on the processes of production, it is worth quoting from a recent study on charcoal and cashewnut production in Rufiji District (Havnevik, 1979). It should be noted that cashewnut production is a lucrative source of foreign exchange but that poorly planned villagization and the dismally low prices paid to producers have contributed to a decline in overall production from 145,000 tons in the 1973/74 crop season to 58,000 tons in 1978/79 (Ellis, 1979). The response of state officials to this staggering decline and their method of trying to deal with the situation are outlined by Havnevik (1979:2, 11-12, 15-17) as follows:

> Recently Rufiji peasants have been responding to prospects for increasing cash income by turning to charcoal production. In an area comprising 34 of the District's some 80 villages, later to be referred to as the Charcoal Belt, a total of about 5,500 peasants have taken up this cash generating activity. At the same time, the government in response to declining cashewnut production has launched the cashewnut campaign: directing peasants to weed the cashewnut trees and avoid burning in order to increase yields. The Charcoal Belt is also the main cashewnut producing area of Rufiji; about 75% of the District production originated here in the crop year 1978/79. The labour input required to weed vast cashewnut fields receiving low returns, is bound to conflict with the increasing tendency

of peasants to turn to charcoal production in order to maintain the level of family consumption . . . .

On the economic level the state motivation for the cashewnut campaign is best revealed by the government official stating: "Cashewnuts bring foreign exchange, charcoal does not." In the statement, the conflicting objectives of cashewnut and charcoal production emerge clearly. The basic causes for the present grave balance of payments and foreign exchange problems are seen to be relative decline in prices of Tanzanian export crops compared to imports, especially the sharp increase in crude oil prices, downward productivity trends both in agriculture and industry . . . and the war in Uganda.

In response, the Tanzanian government through its agencies has intensified implementation of programs aiming at productivity increases for export crops. In the Tanzanian context there is an additional imperative for increasing cashewnut production. Based on production figures of the peak production years, Tanzania with assistance from the World Bank started to expand processing capacity. The situation today is that factories will soon be able to handle about double that of present national collection. Increase in cashewnut production thus became an early target. . . .

During the cashewnut campaign, a total of 90 peasants were fined or jailed in Rufiji District. The campaign had not produced significant results in terms of weeding by the end of May. Consequently, during the last month of the campaign, June, intensification of implementation occurred. Through decree any government employee and vehicle could be mobilized for this purpose. Additional measures were also undertaken having a bearing on other activities:

"Rufiji District has banned petty business which make it difficult for peasants to concentrate on working on cashewnut farms. The ban prohibits burning and selling of charcoal,

> fishing and transporting of fish outside the district" (Daily News, 15/6/1979).
>
> Markets were closed down to divert people from trading activities. Restriction of movement was also instituted. Peasants could not leave their home area before their cashewnut fields were weeded. This restriction is similar to that applied for cotton planting in Rufiji; a certain acreage has to be planted before the peasant can obtain permit to leave the home village. . . .
>
> Conflicting objectives and consequences
>
> The development of charcoal production in Rufiji provides an account of rapid reorientation of peasant production priorities. In the course of two years several thousand peasants took up this production, and the majority during 1979. They responded to increasing prices and easy marketing. No instructions or force was related to this production activity. The objective of the government was to increase foreign exchange earnings through growth of cashewnut production. The use of directives backed by law enforcement proved effective in resolving the conflict to the advantage of the government, at least in the short run. The cashewnut campaign led to actual weeding of the fields on a large scale. Labour was diverted from other activities and charcoal production dropped from 24,019 bags in May to 3,374 bags in June. However, the social and economic costs of implementation, i.e. worsening of relations between peasants and government officials, the cost of manpower and vehicle use for inspection and control and the production lost in other production lines affected must be compared to a possible slight increase in cashewnut production. The Rufiji forecast for 1979/80 cashewnut collection actually indicates a further decline.

VII. CONCLUSION

The present article is primarily descriptive of certain aspects of state coercion in Tanzania, especially as applied to peasant

farmers. I am currently engaged in trying to think through the implications for legal theory of the authoritarianism observed in the legal systems of African countries (Williams, n.d.). A preliminary account of those thoughts might serve as a conclusion for this paper.

It ill-behoves lawyers trained in English common law traditions to engage in liberal moralizing about totalitarian regimes, perversion of the "Rule of Law," and denial of civil liberties. The laws, by-laws, and orders being used to harrass peasants today are part and parcel of a legal system created by British administrators and English trained lawyers. Some steps have been taken since political independence in 1961 to ameliorate some of the more obnoxious aspects of the colonial order. The Magistrates Courts Acts 1963, the African Chiefs Ordinance (Repeal) Act 1963, and the African Chiefs Act 1969 established an integrated court system that divested administrative officers and chiefs of the judicial functions. The increasing professionalization of the magistracy has ensured greater knowledge of the principles of the legal system. The system of racial discrimination that had been a key element of the colonial legal order was eliminated shortly before or immediately after independence. People no longer are classified as Europeans, Arabs, or Africans in order to determine the appropriate legal regime and court system for resolving civil disputes or prosecuting offenders.

A significant innovation recommended by the Presidential Commission on the Establishment of a Democratic One-Party State (1965) was the enactment of the Permanent Commission of Enquiry Act 1966, which created an ombudsman to enquire into the complaints of citizens against government officials and report annually to Parliament. Numerous complaints are investigated by the commission and the government and the party owned newspapers do highlight some of the cases contained in the annual reports. But complaints from poor peasants in villages do not figure prominently in the reports and, despite hopes expressed in a newspaper editorial in 1968, the commission is unlikely to be able to do much about the death of 13 people rounded up in a tax collection campaign who were suffocated in cells (Martin, 1974:205). Still, the commission has on occasion spoken out against extreme abuse of office. Thus a paragraph in the 1967-68 report reads:

> 17. It was alleged often by some of the complainants that there was clamour for local influence among the officials. Our clients went on contending that there is a tendency for officials over-stepping their fields

> of jurisdiction, and to act in a certain way just to show that, either they have authority or they are bosses in their own rights with unfettered limits. Quite a number of cases have been reported to the Commission on this point. For instance, a teacher complained of his arrest by a Magistrate for no reason. In another case a Magistrate was detained by a Regional Commissioner for no reason at all. In yet another case, an Area Commissioner unreservedly interfered with the day-to-day routine administration of a hospital. Investigation revealed that the complaints were founded. Closely connected with complaints in this category, is the interference by politicians or officials through a third person. For example a Divisional Executive Officer, working through his Area Commissioner, who in turn influenced a District Magistrate to call for certain files from a Primary Court Magistrate with a view of reversing the decisions which were not satisfactory to the politicians! There was also a case where a politician ordered a Magistrate to convict an individual. In one case the man was convicted.[18]

Yet the few reforms noted above cannot gainsay the fact that the instruments of British colonial rule continue to serve the interests of those who control the post-colonial state. English law as "received" in Tanganyika remains firmly in place.

It should also be emphasized that the authoritarianism of the Tanzanian state apparatus cannot be explained in terms of the stated aspiration to build a socialist society. There is a common political prejudice that sees a direct connection between socialism and totalitarianism. The African experience provides no evidence to support this view. Kenya has a political and legal system very similar to that operating in Tanzania, yet Kenya espouses a form of "African Socialism" that thinly disguises one of the most laissez-faire capitalist economies in the world. Socialism in the sense of an economic restructuring of the relations of production to provide for control of the means of production by the producers is something that has certainly not even begun to be implemented in Tanzania.

The explanation of authoritarianism must be found instead in the way in which surplus value is extracted in the conditions of dependent capitalist development that dominates African national economies including Tanzania. A key concept for understanding what has been described in this article is the notion of formal subsumption of labor elaborated by Marx in a text known as

Resultate ("Results of the Immediate Process of Production"), which has only been available in an English translation since 1976 (1976:948).

In Marx's view, formal subsumption was characteristic of the period of manufacture whereas real subsumption is characteristic of the modern factory with its constant revolution of production techniques and methods. Resultate was, of course, primarily concerned with the political economy of capitalism as it developed in Europe. However, because only a tiny proportion of immediate producers in Africa work in modern factories, it is most interesting to note what Marx meant by formal subsumption of labor in the period prior to the development of factories employing proletarianized laborers entirely "freed" from the land and any means of subsistence other than the sale of their labor power:

> The fact is that capital subsumes the labour process as it finds it, that is to say, it takes over an existing labour process, developed by different and more archaic modes of production. And since that is the case it is evident that capital took over an available, established labour process. For example, handicraft, a mode of agriculture corresponding to a small, independent peasant economy. If changes occur in these traditional established labour processes after their takeover by capital, these are nothing but the gradual consequences of that subsumption. The work may become more intensive, its duration may be extended, it may become more continuous or orderly under the eye of the interested capitalist, but in themselves these changes do not affect the character of the actual labour process, the actual mode of working. This stands in striking contrast to the development of a specifically capitalist mode of production (large-scale industry, etc.); the latter not only transforms the situations of the various agents of production, it also revolutionizes their actual mode of labour and the real nature of the labour process as a whole. It is in contradistinction to this last that we come to designate as the formal subsumption of labour under capital what we have discussed earlier, viz. the takeover by capital of a mode of labour developed before the emergence of capitalist relations. The latter as a form of compulsion by which surplus labour is exacted by extending the duration of labour-time--a mode of compulsion not based on personal relations of domination and dependency, but simply on differing economic functions--this is common to both forms. However,

> the specifically capitalist mode of production has yet other methods of exacting surplus-value at its disposal. But given a pre-existing mode of labour, i.e. an established development of the productive power, surplus-value can be created only by lengthening the working day, i.e. by increasing absolute surplus value. In the formal subsumption of labour under capital, this is the sole manner of producing surplus-value (1976:1021).

In "additional remarks" Marx reiterates:

> The form based on absolute surplus-value is what I call the formal subsumption of labour under capital. I do so because it is only formally distinct from earlier modes of production on whose foundation it arises spontaneously (or is introduced), either when the producer is self-employing or when the immediate producers are forced to deliver surplus labour to others. All that changes is that compulsion is applied, i.e. the method by which surplus labour is extorted (1976:1025).

Tanzanian peasants are immediate producers who continue to rely on the traditional labor processes of their pre-colonial existence. The vast majority of the Tanzanian population has not been "freed" from the land. On the contrary, definite measures are taken to keep people on the land so as to produce the crops required by the authorities. The compulsion that has constantly been adverted to in this paper helps to create the surplus product for those who control capitalist trade and international commerce. Political and legal mechanisms--extra-economic compulsion--have played and continue to play a vital role in subjecting the immediate producers to the needs of capital. I hope to continue the line of analysis briefly outlined here in future theoretical and empirical study.

NOTES

[1]Ahmed Janmohamed Dhirani v. Republic (Miscellaneous Criminal Cause No. 28 of 1976, Mwanza). I wish to thank my colleague, Dr N. S. Rembe, for drawing my attention to this and other recent unreported judgments cited herein.

[2]Re an Application by Paul Massawe (Miscellaneous Civil Application No. 21 of 1977, Arusha). Mnzavas is now Judge Kiongozi, the presiding judge of the high court, a position created by amendment to the constitution in 1979 when the East Africa Court of Appeal was dissolved and in its place the Tanzania Court of Appeal presided over by the chief justice was established. In this new position he has had further occasion to plead for observance of due process, or at least adherence to the letter of the Preventive Detention Act.

[3]Joseph Kivugo + ors. v. Regional Police Commander, Arusha + anor. (Miscellaneous Civil Application No. 22 of 1978, Arusha).

[4]Ally Juuyawatu v. Loserian Mollel + Landanai Mining Co-operative Society Ltd. (Civil Case No. 6 of 1978, Arusha). In another mandamus case seeking the return of impounded vehicles, a regional police commander and the secretary of a regional security committee refused to accept service of a court summons and were deliberately absent and unrepresented when the application was heard and the mandamus issued. Edward Mlaki + anor. v. Regional Police Commander, Kilimanjaro + anor. (Miscellaneous Civil Application No. 38 of 1979).

[5]Re Ally Lilakwa (Miscellaneous Criminal Cause No. 29 of 1979, Arusha).

[6]James Bita v. Idd Kambi (Civil Appeal No. 104 of 1977, Mwanza). The high court held that there was no valid decision to be appealed and remitted the case to the district magistrate.

[7]"Ndugu" is a Swahili word here used to mean "citizen."

[8]Quoted in Nindi (1979:8).

[9]Quotation of J. Steuart in Marx (1976:1028).

[10]Quoted in Depelchin (1978:8).

[11]Conviction statistics and quotation in Fimbo (1977:6).

[12]Quoted in Shivji (1975:32). The character of hut and poll tax as essentially a labor tax is dealt with in more detail in Shivji (1979:3-8).

[13]Quoted in Kaijage (1978:18-19).

[14]Quoted in Iliffe (1979:290).

[15]Quoted in Bryceson (1978:29-30).

[16]Reported in Daily News, 17 March 1979.

[17]Quoted in Fimbo (1977:13).

[18]Quoted in Martin (1974:207).

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